APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,113	08/01/2003	Michael Beuten	10191/3300	3639

26646	7590	08/26/2005	

KENYON & KENYON
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NEW YORK, NY 10004

EXAMINER
CHERY, MARDOCHEE

ART UNIT	PAPER NUMBER
2188	

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *8/1/03*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
     closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-12* is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-12* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on *8/1/03* is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a) ☒ All   b) ☐ Some *   c) ☐ None of:
       1. ☒ Certified copies of the priority documents have been received.
       2. ☐ Certified copies of the priority documents have been received in Application No. _____.
       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
             application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1.   Acknowledgment is made of applicant's claim for foreign priority under 35

U.S.C. 119(a)-(d). Receipt is acknowledged of papers submitted under 35

U.S.C. 119(a)-(d), which have been placed of record in the file.

Drawings

2.   The drawings are objected to under 37 CFR 1.83(a) because they fail to show –

every feature of the invention specified in the claims-- or --the unlabeled rectangular

box(es) shown in the drawings should be provided with descriptive text labels-- as

described in the specification. Any structural detail that is essential for a proper

understanding of the disclosed invention should be shown in the drawing. MPEP §

608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required

in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure

number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next

Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

4.   Claims 1, and 11-12 are rejected under 35 U.S.C. 112, first paragraph, as failing

to comply with the enablement requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to enable one skilled in the art to

which it pertains, or with which it is most nearly connected, to make and/or use the

invention. The limitation "the chained list is executed" does not comply with the

enablement requirement of 35 USC 112, first paragraph. It's unclear what applicant

intended to say. Furthermore, a chained list is data structure which can be manipulated

by operations implemented and executed separately form the list. In other words, a

chain list in itself is not executable.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6.   The claimed invention is directed to non-statutory subject matter. Claim 11 recites "a computer program code being executable in a computing arrangement". This limitation, as such, is directed to non-statutory subject matter for a computer program in itself is non-tangible unless embodied in a storage medium. See MPEP 2106.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sorber (6,088,777) in view of Porterfield (6,192,457).

     As per claim 1, Sorber discloses a method for providing dynamic memory management of a memory device, the method comprising: providing a first memory block in the memory device [col.3, paragraph 3 and col.5, par.4]; storing a startup program in the first memory block [col.7, par.2]; providing additional memory blocks [col.3, par.2]; and connecting the first memory block and the additional memory blocks

by a chained list [col.16, lines 54-57]; wherein the chained list is executed upon

checking the memory device [col.7, lines 15-28 and col.8, lines 55-67].

However, Sorber does not specifically teach the startup program obtains data for

a check from the additional memory blocks as required by the claim.

Porterfield discloses the startup program obtains data for a check from the

additional memory blocks [col.4, lines 3-13] to initialize the computer system upon being

turned on (col.4, lines 11-13).

Since the technology for implementing a method for dynamic memory

management with the startup program obtaining data for a check from the additional

memory blocks was well known as evidenced by Porterfield, an artisan would have

been motivated to implement this feature in the system of Sorber since this would have

initialized the computer system upon being turned on. Thus, it would have been obvious

to one of ordinary skill in the art at the time of invention by applicant to modify the

system of Sorber to include the startup program obtaining data for a check from the

additional memory blocks because such feature would have initialized the computer

system upon being turned on (col.4, lines 11-13) as taught by Porterfield.

As per claim 2, Sorber discloses the checking is performed using an addition

checksum [col.13, lines 10-17].

As per claim 3, Sorber discloses the checking is performed by a cyclic block

backup [col.14, lines 5-11].

As per claim 4, Porterfield discloses the checking is performed at a time of booting a system that includes the first memory block and the additional memory blocks [col.4, lines 4-13].

As per claim 5, Porterfield discloses the checking is performed in the background during operation of a system that includes the first memory block and the additional memory blocks [col.4, lines 9-13].

As per claim 6, the rationale in the rejection of claim 1 is herein incorporated.

As per claim 7, Sorber discloses each of the additional memory blocks includes an information area that stores information on the memory block itself [Abstract, lines 17-18].

Porterfield further discloses a checking area that stores information for performing the check [col.4, lines 9-13].

As per claim 8, the rationale in the rejection 1 is herein incorporated. Porterfield further discloses a system, comprising: a computing unit [Fig.1].

As per claim 9, Sorber discloses the memory device includes a non-volatile

memory module [col.7, lines 4-7].

As per claim 10, Porterfield discloses the computing unit includes an embedded microcontroller [Fig.1].

As per claim 11, the rationale in the rejection of claim 1 is herein incorporated. Sorber further discloses a computer program including program code for providing dynamic memory management of a memory device, the program code being executable in a computing arrangement [col.7, lines 16-28].

As per claim 12, the rationale in the rejection of claims 1 and 11 is herein incorporated. Sorber further discloses a computer-readable storage medium including program code for providing dynamic memory management of a memory device, the program code being executable in a computing arrangement [Fig.2]

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Leung	2003/0046313
Kobayashi	6,768,739
Tzeng	6,067,574
Srinivan	6,237,061

10.   When responding to the office action, Applicant is advised to clearly point out the patentable novelty that he or she thinks the claims present in view of the state of the art disclosed by references cited or the objections made. He or she must also show how the amendments avoid such references or objections. See 37 C.F.R. 1.111(c).

11.   When responding to the office action, Applicants are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

12.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mardochee Chery whose telephone number is (571) 272-4246. The examiner can normally be reached on 8:30A-5:00P.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manonama Padmanabhan can be reached on (571) 272-4210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

August 19, 2005

/MC

Mardochee Chery
Patent Examiner
AU2188

MANO PADMANABHAN
SUPERVISORY PATENT EXAMINER